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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,947	08/09/2000	Morten Nyborg	1359-00	3879

22469 7590 09/04/2003

SCHNADER HARRISON SEGAL & LEWIS, LLP  
1600 MARKET STREET  
SUITE 3600  
PHILADELPHIA, PA 19103

EXAMINER

NGUYEN, BINH AN DUC

ART UNIT PAPER NUMBER

3713

DATE MAILED: 09/04/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

NK

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/601,947	NYBORG, MORTEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Binh-An D. Nguyen	3713	

All participants (applicant, applicant's representative, PTO personnel):

(1) Binh-An D. Nguyen (examiner). (3) \_\_\_\_\_.

(2) Joan Kluger (applicant's representative). (4) \_\_\_\_\_.

Date of Interview: 28 August 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 33-46.

Identification of prior art discussed: Llenas et al. (5,271,626).

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

J. Wallberg, S.P.E.  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

##### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Ms. Kluger has remarked on the differences between applicant's invention and Llenas rereference, wherein applicant's key code generator randomly generates key codes and provides to them to a predetermined number of viewers for accessing a separated network game program; and Llenas' generated game clues is provided to the viewers to access a current TV game. The applicant has been suggested to officially submit an amendment along with remarks that clearly distinguish such features. Full consideration will be made in upon receiving applicant's response to the last Office action.

Note, applicant's proposed amendment and remarks submitted prior to the interview is attached.

# Schnader

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## FACSIMILE TRANSMISSION COVER SHEET

August 25, 2003

SEND TO: Examiner Binh An Duc Nguyen  
 COMPANY: USPTO  
 FAX #: 703-746-3239

FROM: Joan T. Kluger  
 CLIENT #: 1359-00 (100065-006)

RE: 09/601,947

NUMBER OF PAGES INCLUDING COVER PAGE: 10

### COMMENTS:

Art Unit : 3712  
 Examiner : Nguyen, B  
 Serial No. : 09/601,947  
 Filed : August 9, 2000  
 Inventors : Nyborg, Morten  
 Title : METHOD AND DEVICE FOR Docket No.: 1359-00  
 : ESTABLISHING CONTACT, BASED  
 : ON TELECOMMUNICATIONS Confirmation No.: 3879  
 : NETWORK, BETWEEN A SELECTION  
 : OF TV-VIEWERS AND AN ESTABLISHED  
 : GAME PROGRAM Date: DRAFT

\*\*\*\*\*  
 THE ATTACHED AMENDMENT IS SUBMITTED FOR DISCUSSION PURPOSES  
 ONLY AND IS NOT INTENDED TO BE MADE A PART OF THE RECORD.  
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IF THERE IS A PROBLEM, CALL: 215-751-2357

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Received from < > at 8/25/03 9:48:54 AM [Eastern Daylight Time]

09/601,947

**DRAFT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Art Unit : 3712  
Examiner : Nguyen, B  
Serial No. : 09/601,947  
Filed : August 9, 2000  
Inventors : Nyborg, Morten  
Title : METHOD AND DEVICE FOR  
: ESTABLISHING CONTACT, BASED  
: ON TELECOMMUNICATIONS  
: NETWORK, BETWEEN A SELECTION  
: OF TV-VIEWERS AND AN ESTABLISHED  
: GAME PROGRAM

Docket No.: 1359-00  
Confirmation No.: 3879  
Date: DRAFT  
For discussion  
purposes only.

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**AMENDMENT**

Commissioner for Patents  
Box 1450  
Alexandria, Virginia 22313-1450

Sir:

*The following Amendment and Remarks are submitted for discussion purposes only and are not intended to be made a part of the record. This document is a draft response to the Office Action mailed on May 15, 2003. An extension of time for one month to respond is requested. Please amend the present application without prejudice as follows:*

**In the Claims**

33. (Currently amended) A method for announcing a key code to TV viewers via the screen of their TV set for use in establishing contact between selected

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viewers and an established game program over a telecommunication network, said method comprising the steps of:

generating said key code to include a plurality of descriptive elements, said key code being selected randomly among a predetermined number of different key codes;

transmitting said key code elements in succession to said TV screens within a plurality of selected time slots located within a plurality of selected time units between a start and an end of a TV transmission which is at least one of a TV program and a TV commercial spot; and

~~selecting said viewers for connection to said game program as a function of a predetermined number of viewers who by using the key code manage to establish said contact.~~

providing access to the game program by a predetermined number of viewers who have used the key code to establish said contact with the game program.

34. (Previously added) The method of Claim 33, wherein said selection of said key code incorporates the use of an automatically operating selection device.

35. (Previously added) The method of Claim 33, wherein said selection of said time slots incorporates the use of an automatically operating selection device.

36. (Previously added) The method of Claim 33, wherein at least one of a duration of a time slot and a position of a time slot within a time unit is selected at random.

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37. (Previously added) The method of Claim 36, wherein said random selection is made by an automatically operating device.

38. (Previously added) The method of Claim 33, wherein said viewer connection is made via one or more selected from the group consisting of a telephone network and a computer network.

39. (Previously added) The method of Claim 33, wherein said descriptive elements each comprises one or more selected from the group consisting of symbols, numbers, and letters.

40. (Currently amended) A system for announcing a key code to TV viewers via the screen of their TV set for use in establishing contact between selected viewers and an established game program over a telecommunication network, said ~~method~~ system comprising the steps of:

a key code generator for generating said key code to include a plurality of descriptive elements, said key code generator having means for selecting said key code randomly among a predetermined number of different key codes;

a key code transmitter for transmitting said key code elements in succession to said TV screens within a plurality of selected time slots located within a plurality of selected time units between a start and an end of a TV transmission which is at least one of a TV program and a TV commercial spot; and



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a line connector for connection of viewers to said game program who are selected as a function of a predetermined number of viewers who by using the key code manage to establish said contact.

41. (Currently amended) The system of Claim 40, wherein the key code generator comprises an automatically operating key code selection device wherein ~~means are provided for accomplishing said selection of said key code automatically.~~

42. (Currently amended) The system of Claim 40, wherein the key code transmitter comprises an automatically operating time slot selection component ~~wherein means are provided for accomplishing said selection of said time slots automatically.~~

43. (Currently amended) The system of Claim 40, wherein the key code transmitter comprises a time selection component that ~~wherein means are provided for selecting randomly selects~~ at least one of a duration of a time slot and a position of a time slot within a time unit ~~at random.~~

44. (Currently amended) The system of Claim 43, wherein the key code transmitter comprises an automatically operating time slot selection component for randomly selecting at least one of a duration of a time slot and a position of a time slot within a time unit ~~wherein means are provided for making said random selection automatically.~~

45. (Previously added) The system of Claim 40, wherein said viewer connection is- via a telephone network and a computer network or both.

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46. (Previously added) The system of Claim 40, wherein said descriptive elements each comprises one or more from the group consisting of symbols, numbers, and letters.

47. (New) The method for announcing a key code of claim 33 wherein the key code is a PC related data path or telephone number.

48. (New) The system for announcing a key code of claim 40 wherein the key code is a PC related data path or telephone number.

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**DRAFT****Remarks**

Claims 33-46 are pending. Claims 33, 40-44 have been amended and new claims 47 and 48 are added.

**35 U.S.C. §112 Rejections**

Claim 40 has been amended to clarify that it is directed toward a system.

Claims 41-44 have been amended to clarify the claims.

**35 U.S.C. §102 Rejections**

Claims 33-46 are rejected under 35 U.S.C. §102(b) as being anticipated by Llenas, et al.

As noted in previous responses, but in way of further explanation, Llenas does not teach transmitting key code elements in time units within TV program or commercials. In fact, Llenas teaches away from using TV time or commercial time. (col.7, lines 45-49, col.2, lines 45-64). Llenas explains the disadvantage of using TV or commercial time for games as follows:

One drawback to such a television game, however, is inherent in the use of television air time as a means to convey a message. Television air time is typically very expensive. (col. 2, lines 45-48)

The taped clues 72 cannot be read or viewed except through the detection device 70 such that the display of the clues must necessarily occur during program and commercial breaks, after the detection signals have been detected. (col.7, lines 45-49)

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Llenas merely discloses finding black spaces between TV programs and commercials and inserting clues in the black spaces.

The Examiner notes that Llenas teaches using time slots during regular programming. Applicant maintains, as has been previously presented to the Patent Office, that this is not the same as Applicant's claimed TV and commercial time. In fact, Llenas does not mention commercial time as a possible time slot. Applicant's claimed random insertion of a key code into TV program and commercial spots is not disclosed by Llenas (p.1, lines 35-35 and p.2, lines 15-20).

The Examiner considers "game clues" analogous to a "key code generator" (office action paragraph 5, line 3). The two items are not analogous, and therefore, Llenas does not disclose Applicant's claimed key code generator. The claimed key codes are used to access a game - they are not themselves game clues. In Llenas' FIG. 4a, game clues are provided on a TV screen within a TV program, and then a telephone number is given that a viewer can call with the solution to the game. The game of the claimed present invention is not viewed within a TV program. The game is contained in a game program on a computer to which a viewer must gain access by a computer or telephone, or other telecommunications system (present invention, FIG. 2, part 21). In other words, the claimed invention requires entering a key code to establish contact with a computer that stores the game clues. (p.5, lines 2-5). In Llenas, the actual game is presented on the TV.

Even if game clues were in some way analogous to a key code, they differ because in the claimed invention the viewer obtains the entire key code (the solution) over a period of

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time, whereas Llenas provides limited "clues" that a viewer must analyze to find a solution.

Further more, Llenas' clues do not provide access to anything. To the contrary, the claimed invention's key code provides access to a game. The claimed invention provides individual key code elements that are transmitted so that a viewer must compile them over a period of time to generate the entire key code, thereby enabling the viewer to access a game. Additionally, Llenas' clues are taped (col.7, lines 45-49), not generated randomly as the claimed key code. Applicant's claimed randomly generated key code is clearly not analogous or used in the same manner as Llenas' clues.

The claimed random selection of Applicant's key code (p.1, lines 33-34) is important because it prohibits viewers from sitting in readiness to dial a particular number (p.2, lines 4-9). The automatic selection of key codes further prevents employees from taking advantage of knowing the code (p.2, lines 29-33). Numerous people may have advanced access to Llenas' game and a telephone number, and therefore, the ability to compete at an unfair advantage.

Applicant claims access to only a predetermined number of viewers (p.2, lines 10-12). Llenas does not disclose a way to limit access to the game.

In summary, Llenas does not disclose random generation of key codes, transmitting key codes during TV or commercial time slots, nor providing access to a limited number of viewers. Therefore, Llenas does not disclose Applicant's claimed invention.

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In light of the foregoing, we submit that the entire application is in condition for allowance, which is respectfully requested.

Respectfully submitted,

SCHNADER HARRISON SEGAL & LEWIS LLP

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Dated: \_\_\_\_\_